

## **INITIAL STATEMENT OF REASONS**

April 25, 2006

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Chapter 1248, Statutes of 1990) (Act), created a comprehensive state oil spill program for marine waters. Among its many provisions, the Act authorized the Administrator to create harbor safety committees for the following five harbors: San Diego; Los Angeles/Long Beach; Port Huenum; San Francisco, San Pablo and Suisun Bays; and Humboldt Bay. Each committee is required to develop harbor safety plans for the safe navigation and operation of tankers, barges and other vessels within the harbors. Government Code Section 8670.23.1 also directed the Administrator to adopt regulations and guidelines implementing escort tug requirements for specified harbors.

Following the enactment of the above-cited legislation, and the establishment of the Office of Spill Prevention and Response (OSPR), regulations governing escort tug requirements were drafted to clarify the guidelines for escort tugs at each individual harbor, to address the peculiarities of local waters that call for special precautionary measures. These sections establish clear and consistent guidelines to those parties either affected by their adoption or charged with their enforcement. These regulations were necessary to implement, interpret and make specific Government Code Sections 8670.17.2 and 8670.23.1.

Government Code Section 8670.17.2(b) directs the Administrator to determine that a tug boat is of sufficient size, horsepower and pull capability to perform their escort and assist functions adequately. The bollard pull test measures this pull capability. Conducting a bollard pull test involves tying up the tug to a dock and pulling against a “bollard” for a specified duration of time to measure the force of the pull. Understandably, boat docks are not receptive to allowing this type of test at their facility. The only location in the Los Angeles/Long Beach area that allowed the bollard pull test closed at the end of March 2005. There is documentation that the bollard pull of a tug does not appreciably change between tests, which are conducted every three years. Because of this, and to give industry time to find alternate locations to do the test, or alternates to the test itself, a rulemaking was completed and approved in April 2005 (Regulatory Action Number: 05-0412-015) to allow a one-year extension to the bollard pull re-test for the Los Angeles/Long Beach Harbors. (This extension was changed to two-years in an Emergency Rulemaking (Emergency File Number: 06-0224-02E) completed and approved on March 1, 2006, to allow more time for industry and OSPR to address the bollard pull re-test issue).

OSPR formed an Escort Tug Action Team (ETAT) made up of tug companies throughout the state, which has examined the issues surrounding the bollard pull re-test and any alternatives that might be acceptable to the industry and OSPR. The ETAT has made its recommendations to the five Harbor Safety Committees (HSCs) throughout the state and the Administrator. This rulemaking implements the recommendation of the ETAT review, and is a follow-up to the emergency action.

The specific purpose for each adoption, amendment, or repeal contained in these proposed regulations is set forth below:

**Subchapter 1. Tank Vessel Escort Regulations for the San Francisco Bay Region:**

**Section 851.8(b):**

This subsection has been amended to specify that modifications or repairs, as specified, to the escort tug would require the braking force to be re-measured. This will ensure that the braking force of the escort tug has been re-measured and documented in case the modifications or repairs have caused appreciable changes in the escort tug's braking force capability.

The subsection also outlines an alternative to the routine re-testing of the braking force. An Escort Tug company can opt to submit to an Escort Tug Inspection Program administered by OSPR, which is the alternative to the required braking force re-testing every three years. The subsection specifies the requirements of this program, for escort tugs over 150 gross tons and escort tugs under 150 gross tons. Program elements include inspection of the tug during its dry dock examination, inspection of any maintenance records, and copies of a surveyor's report, as specified. This will ensure that the tugs are being maintained in a condition to adequately be able to perform their escort and assist duties, in the event of a propulsion or steering failure by a tank vessel.

Several citation corrections have been made in this subchapter. These are non-substantive changes without regulatory affect.

**Subchapter 2. Tank Vessel Escort Program for The Los Angeles/Long Beach Harbor:**

**Section 851.23(a)(6) and (7):**

These subsections have been amended to specify that modifications or repairs, as specified, to the escort tug would require the braking force to be re-tested. The subsection also outlines an alternative to the routine re-testing of the braking force. An Escort Tug company can opt to submit to an Escort Tug Inspection Program administered by OSPR, which is the alternative to the required braking force re-testing every three years. The subsection specifies the requirements of this program, for escort tugs over 150 gross tons and escort tugs under 150 gross tons. Program elements include inspection of the tug during its dry dock examination, inspection of any maintenance records, and copies of a surveyor's report, as specified. This will ensure that the tugs are being maintained in a condition to adequately be able to perform their escort and assist duties, in the event of a propulsion or steering failure by a tank vessel.

The old bollard pull requirements (Subsection (a)(6)(A)), including the new language from the emergency rulemaking that allowed a two year extension of the bollard pull re-test, has been repealed. The new language reflects the ETAT's recommendations that an inspection program be offered in lieu of the mandatory 3-year re-test.

### **Subchapter 3. Tank Vessel Escort Regulations for Port Hueneme Harbor:**

#### **Section 851.51(c):**

This subsection has been amended to specify that modifications or repairs, as specified, to the escort tug would require the braking force to be re-tested. This will ensure that the braking force of the escort tug has been re-tested and documented in case the modifications or repairs have caused appreciable changes in the escort tug's braking force ability. The new measurements must be registered with the Oxnard Harbor District.

### **Subchapter 4. Tank Vessel Escort Regulations for Humboldt Bay:**

#### **Section 851.85(j):**

This subsection has been amended to specify that modifications or repairs, as specified, to the escort tug would require the braking force to be re-tested. This will ensure that the braking force of the escort tug has been re-tested and documented in case the modifications or repairs have caused appreciable changes in the escort tug's braking force ability. The new measurements must be registered with the Humboldt Bay Harbor District.

### **Subchapter 4. Tank Vessel Escort Regulations for Humboldt Bay:**

#### **Section 852.3(c):**

This subsection has been amended to specify that modifications or repairs, as specified, to the escort tug would require the braking force to be re-tested. This will ensure that the braking force of the escort tug has been re-tested and documented in case the modifications or repairs have caused appreciable changes in the escort tug's braking force ability. The new measurements must be registered with the U.S. Coast Guard Captain of the Port, and the San Diego Harbor Safety Committee.

#### **DOCUMENTS RELIED UPON**

Technical, theoretical or empirical studies or reports relied upon:  
None.

#### **BUSINESS IMPACT**

These amendments give a comparable option to current practices of re-testing bollard pull, and will not result in significant adverse economic impact on businesses.

#### **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

The proposed amendments do not mandate the use of specific technologies or equipment.

#### CONSIDERATION OF ALTERNATIVES

No alternative which was considered by the OSPR would be more effective than or equally as effective as and less burdensome to affected private persons than the proposed amended regulations

#### COMPLIANCE WITH GOVERNMENT CODE SECTIONS 11346.2(b)(6), 11346.5, and 11349(f)

The regulations do not conflict with Federal statutes or regulations.